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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,152	09/28/2001	Christopher Uhlik	15685P067	4962

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BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW Evergreen Parkway, Suite 250
BEAVERTON, OR 97006

EXAMINER

TIEU, BINH KIEN

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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06/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/967,152	UHLIK ET AL.	
	Examiner	Art Unit	
	BINH K. TIEU	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-100 is/are pending in the application.
- 4a) Of the above claim(s) 23-76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 77-100 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled or withdrawn, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

In the Office Action, dated on 10/19/2004, claims 1-76 were subjected to restrictions and/or election requirement.

In response to the restriction/election requirement, dated on 11/22/2004, the Applicants elected the invention of group I included claims 1-22 with traverse. Claims 23-76 were withdrawn.

Since claims 23-76 were already existed with status "withdrawn." Therefore, misnumbered claims (new claims) 23-46 have been renumbered 77-100.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-19, 77-86 and 90-97 are rejected under 35 U.S.C. 102(e) as being anticipated by Black et al. (US. Pat. #: 6,754,833).

Regarding claim 1, Black et al. ("Black") teaches a method comprising:

an access point of a network, collecting statistical data for a plurality of user terminals, wherein the user terminal are capable of accessing the network by use of the access point, and wherein the statistical data comprises information about data provided from a server accessible to the to the plurality of user terminals (col.12, line 64 through col.13, line 10).

providing to the server the statistic data;

at the server, determining a payment associated with an account associated with an operator of the access point, wherein the determining is based, at least in part, on the provided statistical data (col.10, line 44 through col.11, line 12).

Regarding claim 2, note the portal or web-site (access point) is operated by Internet Partner (a network service provider) in col.9, lines 39-47.

Regarding claim 3, note col.10, lines 7-20.

Regarding claim 4, note in figure 3, the wireless carrier 502 which provides services to mobile subscribers (i.e., stock data, etc.) pays the Internet Partner 504 via Telecom Revenue 512 in col.10, line 44 – col.11, line 12.

Regarding claims 5 and 7-19, note figures 1-2, col.6, lines 17-63 through col.9, line 25

Regarding claim 6, note in figure 3, the wireless carrier 502 which provides services to mobile subscribers (i.e., stock data, etc.) pays the Internet Partner 504 via Telecom Revenue 512 in col.10, line 44 – col.11, line 12.

Regarding claim 77, Black teaches a system, comprising:

a network access point capable of collecting statistical data for a plurality of user terminals, wherein the user terminal are capable of accessing the network by use of the access point, and wherein the statistical data comprises information about data provided from a server accessible to the to the plurality of user terminals (col.12, line 64 through col.13, line 10).

providing to the server the statistic data;

a server capable of determining a payment associated with an account associated with an operator of the access point, wherein the determining is based, at least in part, on the provided statistical data (col.10, line 44 through col.11, line 12).

Regarding claim 78, note the portal or web-site (access point) is operated by Internet Partner (a network service provider) in col.9, lines 39-47.

Regarding claim 79, note col.10, lines 7-20.

Regarding claim 80, note in figure 3, the wireless carrier 502 which provides services to mobile subscribers (i.e., stock data, etc.) pays the Internet Partner 504 via Telecom Revenue 512 in col.10, line 44 – col.11, line 12.

Regarding claims 81 and 83-86, note figures 1-2, col.6, lines 17-63 through col.9, line 25

Regarding claim 82, note in figure 3, the wireless carrier 502 which provides services to mobile subscribers (i.e., stock data, etc.) pays the Internet Partner 504 via Telecom Revenue 512 in col.10, line 44 – col.11, line 12.

Regarding claim 90, Black teaches an article comprising: a storage medium having stored thereon instructions that if executed by a computing device performs a method as followings:

an access point of a network, collecting statistical data for a plurality of user terminals, wherein the user terminal are capable of accessing the network by use of the access point, and wherein the statistical data comprises information about data provided from a server accessible to the to the plurality of user terminals (col.12, line 64 through col.13, line 10).

providing to the server the statistic data;

at the server, determining a payment associated with an account associated with an operator of the access point, wherein the determining is based, at least in part, on the provided statistical data (col.10, line 44 through col.11, line 12).

Regarding claim 91, note the portal or web-site (access point) is operated by Internet Partner (a network service provider) in col.9, lines 39-47.

Regarding claim 92, note col.10, lines 7-20.

Regarding claims 93 and 95-97, note figures 1-2, col.6, lines 17-63 through col.9, line 25

Regarding claim 94, note in figure 3, the wireless carrier 502 which provides services to mobile subscribers (i.e., stock data, etc.) pays the Internet Partner 504 via Telecom Revenue 512 in col.10, line 44 – col.11, line 12.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in . section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 20-22, 87-89 and 98-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al. (US. Pat. #: 6,754,833) in view of Zhang et al. (Pub. No.: US 2005/0044216).

Regarding claims 20-22, 87-89 and 98-100, Black teaches all subject matters as claimed above, except for the well-know features of counting bytes in data transmission for purpose of detailed billings. However, Zhang et al. ("Zhang") teaches such well-known features in paragraphs [0006] and [0008].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the well-known features of counting bytes in data transmission, as taught by Zhang, into view of Black in order to provide detailed billings.

Response to Arguments

6. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any response to this final action should be mailed to:

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Or faxed to:

**(703) 872-9314 or (571) 273-8300 (for formal communications; please
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mark

Or:

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Hand Carry Deliveries to:

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401 Dulany Street
Alexandria, VA 22314**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh K. Tieu whose telephone number is (571) 272-7510 and E-mail address: BINH.TIEU@USPTO.GOV.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (571) 272-7499 and **IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL CUSTOMER SERVICE FOR THE SUBSTITUTIONS OR COPIES.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the FAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/BINH K. TIEU/
Primary Examiner
Technology Division 2614

Date: June 2007